

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

No. 2013 - 1332, -1333

LOOPS, LLC and LOOPS FLEXBRUSH, LLC

Plaintiffs - Appellees,

v.

PHOENIX TRADING, INC. and WENDY HEMMING

Defendants-Appellants

v.

RICK KLINGBEIL and RICK KLINGBEIL, PC,

Movants-Appellants

**RICK KLINGBEIL's AND RICK KLINGBEIL, PC's
UNOPPOSED MOTION TO RESET DATE FOR ORAL ARGUMENT**

SUPPORTED BY DECLARATION OF RICK KLINGBEIL

MOTION

Pursuant to Federal Circuit Rule 34(b), Appellants Rick Klingbeil and Rick Klingbeil, PC move for a postponement of the August 7, 2014 oral argument in this matter. Appellants have corresponded with Appellee's counsel who does not oppose this request. Co-Appellants Phoenix Trading, Inc. and Wendy Hemming join in this request.

This request is made based on the reasons set forth in the Declaration of Rick Klingbeil, set forth below. In sum, on March 26, 2014, Rick Klingbeil prepaid for a 16-day commercially guided raft trip down the Colorado River /

Grand Canyon which was set to begin July 26, 2014 and end on August 13, 2014. This vacation was the product of a permit applied for and awarded through a lottery system by the U.S. Government's National Park Service. The permit required registration by each participating individual's name, address, and birthdate. That information was submitted to the National Park Service in April, 2014 and the reserved spot cannot be transferred, sold, or refunded. The initial trip cost was \$1,100, and with airfare, lodging, and other expenditures over \$2,000 had been expended before the date of this court's notice of oral argument.

If the National Park Service permit for Klingbeil is not used this year, there is a potential that the ability to obtain future permits by the guide service could be compromised.

This is also the only vacation of any significance taken by Klingbeil within the past three years.

CONCLUSION

For the above reasons, the Court should grant Appellants' motion to postpone and reset oral argument in this matter.

DATED: July 5, 2014.

Respectfully submitted,

/s/ Rick Klingbeil

Rick Klingbeil, PC

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Counsel for Appellants Rick Klingbeil and Rick Klingbeil, PC

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**DECLARATION OF RICK KLINGBEIL IN SUPPORT OF
RICK KLINGBEIL'S AND RICK KLINGBEIL, PC'S
UNOPPOSED MOTION TO RESET DATE FOR ORAL ARGUMENT**

I, Rick Klingbeil, declare as follows:

1. I am counsel for Appellant Rick Klingbeil and Rick Klingbeil, PC in this matter. I have personal knowledge of the matters set forth below.
2. I submit this declaration in support of Appellants' Unopposed Motion to Reset Date for Oral Argument.
3. On March 26, 2014, I prepaid for a 16-day commercially guided raft trip down the Colorado River / Grand Canyon which was set to begin July 26, 2014 and end on August 13, 2014. This vacation was the product of a permit applied for and awarded through a lottery system by the U.S.

Government's National Park Service. The permit required registration by individual name, address, and birthdate. This registration was submitted in April, 2014. The reserved spot that I am registered for cannot be transferred, sold, or refunded. The registration for my spot cost \$1,100, and I have spent at least \$2,000 total in preparation for the vacation.

4. My understanding from speaking from one of the guides involved is that if the prepaid registration under the permit for my spot is not used this year, there is a potential that the ability to obtain future permits by the guide service could be compromised.

5. This is also the only vacation of any significance I have scheduled or attempted to take within the past three years.

6. This request is made in good faith, not for improper purpose or unnecessary delay, and not to gain unfair or tactical advantage over any other party.

7. Appellee's / Loops' counsel has indicated via email correspondence that Appellee does not oppose this request.

8. Counsel for co-appellant Phoenix Trading, Inc. and Wendy Hemming has indicated to me by telephone that Phoenix Trading, Inc. and Wendy Hemming join this request.

9. I filed this Motion as soon as possible after receiving responses from the other parties in this case, and receiving information from third parties that was included in this Motion.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: July 5, 2014 in Portland, Oregon.

/s/ Rick Klingbeil
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Counsel for Appellants Rick Klingbeil and Rick Klingbeil, PC

CERTIFICATE OF SERVICE

I hereby certify that on July 5, 2014 I caused the foregoing document(s) to be electronically filed with the Clerk of the Court using CM/ECF, which to my understanding will automatically send notification of such filing to all registered users associated with this case.

Respectfully submitted,

/s/ Rick Klingbeil
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Counsel for Appellants Rick Klingbeil and Rick Klingbeil, PC